

**REMARKS:**

Applicants wish to thank the Examiner for the time required to conduct the telephone interview on January 29, 2007. In the interview, the finality of the Office Action mailed August 8, 2006 was discussed. Applicants believe the finality of the Office Action should be rescinded. In the end, the finality of the Office Action remained. The present RCE and Amendment are hereby filed in response to the final Office Action mailed August 8, 2006.

Claims 4, 6-8, 10, 11, 15-20, 44, and 46-61 were pending prior to this Amendment. By this Amendment, claim 19 is cancelled and claims 4, 6-8, 10, 11, 15-18, 20, 44 and 46-49 are amended, thereby leaving claims 50-61 unchanged.

**Independent Claim 4 and its Dependent Claims 6-8, 10, 11, 15-18, 20, and 46-49**

Independent Claim 4 recites:

A circular saw comprising:  
a housing;  
a motor at least partially positioned within the housing and operable to drive a circular saw blade;  
a shoe plate connected to the housing and engageable with a surface of a workpiece to support the circular saw upon the workpiece, the circular saw blade being disposed both above and below the shoe plate;  
a cover selectively connectable to the housing, the cover at least partially covering the circular saw blade when the cover is connected to the housing; and  
a quick-locking member connected to one of the housing and the cover and engageable with the other of the housing and the cover to selectively lock the cover to the housing without the use of tools;  
wherein the quick-locking member is connected to the housing and is engageable with the cover;  
wherein the quick-locking member has a first position, in which the quick-locking member engages the cover to lock the cover to the housing, and a second position, in which the quick-locking member is disengaged from the cover and the cover is not locked to the housing;  
wherein the quick-locking member is pivotable between the first position and the second position.

**35 U.S.C. §102(b)**

Claims 4, 46, and 47 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 4,382,334 ("Reynolds").

Reynolds does not teach or suggest, among other things, a circular saw including a motor operable to drive a circular saw blade and a shoe plate connected to the housing and engageable with a surface of a workpiece to support the circular saw upon the workpiece, the circular saw blade being disposed both above and below the shoe plate, and a cover selectively connectable to the housing. Rather, Reynolds discloses a chain saw with a saw bar 20 and a saw chain 22 driven around the saw bar 20.

For these and other reasons, Reynolds does not teach or suggest the subject matter of independent claim 4. Accordingly, independent claim 4 is allowable over Reynolds. Claims 6-8, 10, 11, 15-18, 20, and 46-49 depend from independent claim 4 and define over Reynolds for the same and other reasons as independent claim 4.

35 U.S.C. §103(a)

Claims 4, 6-8, 10, 11, 15, 16, and 18 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 2,662,562 ("Lindell") in view of U.S. Patent No. 3,043,616 ("Magnuson") or U.S. Patent No. 3,811,747 ("Levin").

Lindell discloses a hand drill 7, which can have a saw attachment connected thereto. The drill 7 includes a housing (not identified with a reference number, but in the vicinity of reference number 7 in Fig. 1) and a motor (not shown) supported within the housing. The saw attachment includes a drive shaft 24 having a first end coupled to the motor of the drill and a second end displaced a significant distance from the first end and coupled to a saw 36. The drive shaft 24 is driveable by the motor of the hand drill 7 to turn the saw 36 for cutting purposes. A shaft casing 12 cases the drive shaft 24 and has a pair of guide plates 44 connected to an end of the shaft casing distal the hand drill 7. With reference to Figs. 8-14 of Lindell, the saw attachment includes a guard for the saw 36. The saw guard includes a receptacle 54 connected to a front member 28 adjacent the distal end of the shaft casing 12 for collecting saw dust. The saw guard also includes a cover 55 attached to the receptacle 54.

Lindell does not teach or suggest, among other things, a circular saw comprising a motor at least partially positioned within a housing, a cover selectively connectable to the housing, a quick-locking member connected to the housing, and a shoe plate connected to the housing and engageable with a surface of a workpiece to support the circular saw upon the workpiece, the circular saw blade being disposed both above and below the shoe plate.

First, Lindell does not disclose a circular saw. This is clear from the figures.

Also, Lindell discloses a motor (of the drill) connected to a housing of the drill, a cover 55 connected to a receptacle of a saw guard, and a screw stud 58 and nut 59 connected to the cover 55. The drill housing and the saw guard are clearly separate items. The Examiner attempts to rely on a variety of objects, particularly the drill housing, the shaft casing 12, the base housing 21, and the receptacle 54 of the saw guard, to satisfy the "housing" claimed in claim 4. This is clearly improper.

In addition, Lindell does not disclose a quick-locking member being pivotable between a first position and a second position. The Examiner acknowledges this on page 4, paragraph #6 of the Office Action dated August 8, 2006.

Further, Lindell is operated by a user for cutting overhead items. Lindell has no need for a shoe plate connected to the housing and engageable with a surface of a workpiece to support the circular saw upon the workpiece, the circular saw blade being disposed both above and below the shoe plate.

For these and other reasons, Lindell does not teach or suggest the subject matter of independent Claim 4.

Magnuson does not cure the deficiencies of Lindell. Magnuson discloses a fastener for fastening a container.

In proceedings before the Patent and Trademark Office, the Examiner bears the burden of presenting a *prima facie* case of obviousness based upon the prior art. In re Fritch, 972 F.2d 1260, 1265, 23 U.S.P.Q.2d 1780, 1783 (Fed. Cir. 1992); In re Fine, 837 F.2d 1071, 1074, 5 U.S.P.Q.2d 1596, 1598 (Fed. Cir. 1988).

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the reference(s) themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference(s) or to combine reference teachings. In re Vaeck, 947 F.2d 488, 493, 20 U.S.P.Q. 2d 1438, 1442 (Fed. Cir. 1991). Second, there must be a reasonable expectation of success. Id. Third, the prior art reference (or references when combined) must teach or suggest all of the claim limitations. In re Royka, 490 F.2d 981, 985, 180 U.S.P.Q. 580, 583 (CCPA 1974); MPEP §§706.02(j), 2143.03.

Regarding the first criteria, there is no suggestion or motivation, whether explicit or implicit, that the teachings of Lindell and Magnuson should or could be combined. The

references are devoid of any teaching or suggestion of the claimed circular saw and any advantages that flow therefrom. The only motivation for the claimed circular saw comes from Applicants' invention, and, therefore, the Examiner's rejection based on Lindell and Magnuson is a classic case of hindsight.

The Examiner must find analogous art in order to rely on the art as a basis for rejection. To be analogous, the reference must either be in the field of Applicants' endeavor or, if not, then be reasonably pertinent to the particular problem with which the inventor was concerned. Applicants respectfully submit that Magnuson is non-analogous prior art.

First, Magnuson is not in the Applicants' field of endeavor. Magnuson relates to the art of container fasteners and discloses a draw or toggle bolt for fastening together a hinged cover and a container. Magnuson is not related to saws.

In addition, Magnuson is classified in a different PTO classification than Lindell and the Present Application. Magnuson is classified in class 292, subclass 3, related to multiple fasteners for containers. Lindell is classified in class 30, subclass 331, related to cutlery with a work engaging member. The claimed invention of the Present Application has been preliminarily classified in class 30. The PTO classification of Magnuson is very different than the classifications of Lindell and the claimed invention of the Present Application, thereby accentuating that Magnuson is clearly not in the Applicants' field of endeavor. This difference in classification appears to be sound reasoning for establishing non-analogous art and that the references cannot be combined, since the USPTO commonly relies on the difference in classification to establish restriction requirements.

Second, Magnuson is not reasonably pertinent to the particular problem with which Applicants were concerned. A reference may be reasonably pertinent if it is one which logically would have commended itself to an inventor's attention in considering his problem. A person of ordinary skill in the art of saws would not reasonably be expected or motivated to look to the art of container fasteners to solve the problems of saws. Applicants would have had less motivation or occasion to consider Magnuson because the reference is directed to a different purpose. The Examiner has combined the disparate elements from Lindell and Magnuson with the benefit of improper hindsight, and the combination is insufficient to present a *prima facie* case of obviousness. For these and other reasons, Magnuson is non-analogous prior art and is not an appropriate basis for a rejection under 35 U.S.C. §103.

Levin also does not cure the deficiencies of Lindell. Levin discloses a transit case having a plurality of latches.

As described above, the Examiner bears the burden of presenting a *prima facie* case of obviousness based upon the prior art and to establish a *prima facie* case of obviousness, all three basic criteria must be met.

The Examiner must find analogous art in order to rely on the art as a basis for rejection. To be analogous, the reference must either be in the field of Applicants' endeavor or, if not, then be reasonably pertinent to the particular problem with which the inventor was concerned. Applicants respectfully submit that Levin is non-analogous prior art.

First, Levin is not in the Applicants' field of endeavor. Levin relates to the art of cabinet structures and discloses a stackable transit case. Levin is not related to saws.

In addition, Levin is classified in a different PTO classification than Lindell and the Present Application. Levin is classified in class 312, subclass 308, related to cabinet structures that are removably supportable on top of each other. Lindell is classified in class 30, subclass 331, related to cutlery with a work engaging member. The claimed invention of the Present Application has been preliminarily classified in class 30. The PTO classification of Levin is very different than the classifications of Lindell and the claimed invention of the Present Application. Levin is clearly not in the Applicants' field of endeavor. This difference in classification appears to be sound reasoning for establishing non-analogous art and that the references cannot be combined, since the USPTO commonly relies on the classification difference to establish restriction requirements.

Second, Levin is not reasonably pertinent to the particular problem with which Applicants were concerned. A reference may be reasonably pertinent if it is one which logically would have commended itself to an inventor's attention in considering his problem. A person of ordinary skill in the art of saws would not reasonably be expected or motivated to look to the art of cabinet structures to solve the problems of saws. Applicants would have had less motivation or occasion to consider Levin because the reference is directed to a different purpose. The Examiner has combined the disparate elements from Lindell and Levin with the benefit of improper hindsight, and the combination is insufficient to present a *prima facie* case of obviousness. For these and other reasons, Levin is non-analogous prior art and is not an appropriate basis for a rejection under 35 U.S.C. §103.

As established above, Magnuson and Levin are non-analogous prior art to Lindell, and there is no suggestion or motivation to combine the teachings of Lindell and Levin or Magnuson. In addition, Lindell and Magnuson or Levin, alone or in combination, do not teach or suggest the subject matter of independent claim 4. For these and other reasons, Applicants respectfully submit that the Examiner has failed to establish a *prima facie* case of obviousness of independent claim 4 based upon the prior art as required by 35 U.S.C. §103. Accordingly, independent claim 4 defines over Lindell and Magnuson or Levin.

Claims 4, 17, and 20 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 4,466,187 ("Morimoto") in view of Lindell.

Morimoto discloses a rotary saw 1, two discs, a motor 3, a casing for containing the motor 3, a table 5, and a dust collecting device 8.

As described above, the Examiner bears the burden of presenting a *prima facie* case of obviousness based upon the prior art and to establish a *prima facie* case of obviousness, all three basic criteria must be met.

Morimoto does not teach or suggest, among other things, a quick-locking member connected to the housing that is engageable with a cover. Therefore, Morimoto cannot teach or suggest a quick-locking member pivotable between a first position and a second position.

Lindell does not cure the deficiencies of Morimoto. As discussed above, Lindell does not teach or suggest a variety of limitations of independent claim 4.

Assuming *arguendo* that Morimoto and Lindell could be combined, they do not teach or suggest all the claim limitations of independent claim 4. For these and other reasons, Applicants respectfully submit that the Examiner has failed to establish a *prima facie* case of obviousness of independent claim 4 based upon the prior art as required by 35 U.S.C. §103. Accordingly, independent claim 4 defines over Morimoto and Lindell.

For these and other reasons, independent claim 4 is allowable. Claims 6-8, 10, 11, 15-18, 20, and 46-49 depend from independent claim 4 and are allowable for the same and other reasons as independent claim 4.

The 35 U.S.C. §103(a) rejection of dependent claims 48 and 49 using Reynolds in view of Crane will not be addressed herein since claims 48 and 49 depend from independent claim 4 and independent claim 4 has been established as defining over the cited references for the above and other reasons.

#### Independent Claim 44 and its Dependent Claims 50-61

Independent claim 44 recites:

A saw comprising:  
a housing;  
a motor at least partially positioned within the housing and operable to drive a saw blade;  
a cover selectively connectable to the housing, the cover at least partially covering the saw blade when the cover is connected to the housing; and  
a quick-locking member connected to one of the housing and the cover and engageable with the other of the housing and the cover to selectively lock the cover to the housing without the use of tools, the quick-locking member being pivotable between a first position, in which the cover is locked to the housing, and a second position, in which the cover is not locked to the housing.

#### 35 U.S.C. §103(a)

Claims 44, 50-57, 59, and 60 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Lindell in view of Magnuson or Levin.

Lindell does not teach or suggest, among other things, a saw comprising a motor at least partially positioned within a housing, a cover selectively connectable to the housing, and a quick-locking member pivotable between a first position and a second position. Rather, Lindell discloses a motor (of the drill) connected to a housing of the drill and a cover 55 connected to a receptacle of a saw guard. The drill housing and the saw guard are clearly separate items. The Examiner attempts to rely on a variety of objects, particularly the drill housing, the shaft casing 12, the base housing 21, and the receptacle 54 of the saw guard, to satisfy the “housing” claimed in claim 44. This is clearly improper.

In addition, Lindell does not disclose a quick-locking member being pivotable between a first position and a second position. The Examiner acknowledges this on page 4, paragraph #6 of the Office Action dated August 8, 2006.

For these and other reasons, Lindell does not teach or suggest the subject matter of independent claim 44.

Magnuson does not cure the deficiencies of Lindell. Magnuson discloses a fastener for fastening a container.

For the sake of brevity, reference is made to the remarks above in connection with the inappropriateness of combining Lindell and Magnuson. Such remarks are applicable to independent claim 44 and are incorporated herein.

For these and other reasons, Lindell and Magnuson do not teach or suggest the subject matter of independent claim 44.

Levin also does not cure the deficiencies of Lindell. Levin discloses a transit case having a plurality of latches.

For the sake of brevity, reference is made to the remarks above in connection with the inappropriateness of combining Lindell and Levin. Such remarks are applicable to independent claim 44 and are incorporated herein.

For these and other reasons, Lindell and Levin do not teach or suggest the subject matter of independent claim 44.

Lindell and Magnuson or Levin, alone or in combination, do not teach or suggest the subject matter of independent claim 44. In addition, Magnuson and Levin are non-analogous prior art to Lindell, and there is no suggestion or motivation to combine the teachings of Lindell and Levin or Magnuson. For these and other reasons, Applicants respectfully submit that the Examiner has failed to establish a *prima facie* case of obviousness of independent claim 44 based upon the prior art as required by 35 U.S.C. §103. Accordingly, independent claim 44 defines over Lindell and Magnuson or Levin.

Claims 44, 58, and 61 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Morimoto in view of Lindell.

Morimoto discloses a rotary saw 1, two discs, a motor 3, a casing for containing the motor 3, a table 5, and a dust collecting device 8.

As described above, the Examiner bears the burden of presenting a *prima facie* case of obviousness based upon the prior art and to establish a *prima facie* case of obviousness, all three basic criteria must be met.

Morimoto does not teach or suggest, among other things, a quick-locking member connected to one of the housing and the cover and engageable with the other of the housing and the cover. Therefore, in addition, Morimoto cannot teach or suggest a quick-locking member pivotable between a first position and a second position.



For these and other reasons, Morimoto does not teach or suggest the subject matter of independent claim 44.

Lindell does not cure the deficiencies of Morimoto. As discussed above, Lindell does not teach or suggest a variety of limitations of independent claim 44.

Assuming *arguendo* that Morimoto and Lindell could be combined, they do not teach or suggest all the claim limitations of independent claim 44. For these and other reasons, Applicants respectfully submit that the Examiner has failed to establish a *prima facie* case of obviousness of independent claim 44 based upon the prior art as required by 35 U.S.C. §103. Accordingly, independent claim 44 defines over Morimoto and Lindell.

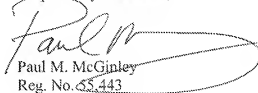
For these and other reasons, independent claim 44 is allowable. Claims 50-61 depend from independent claim 44 and are allowable for the same and other reasons as independent claim 44.

**CONCLUSION:**

In view of the foregoing, entry of the present Amendment and allowance of the pending claims are respectfully requested.

The undersigned is available for telephone consultation during normal business hours.

Respectfully submitted,

  
Paul M. McGinley  
Reg. No. 55,443

Docket No. 066042-9415-01  
Michael Best & Friedrich LLP  
100 East Wisconsin Avenue  
Suite 3300  
Milwaukee, Wisconsin 53202-4108  
(312) 222-0800